

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 18 – the high permittivity member is not positively provided between the electrode and insulating member. Claim 20 fails to positively set forth any actual method steps.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 11 inferentially includes the human body as an element of the sensor.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11, 12, 15-17, and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gevins et al (6,445,940). Applicant's attention is directed to Figures 1B and 5. Details of the sensor are disclosed at column 4, line 37 – column 5, line 45.

Claims 11, 12, 14-18, and 20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Brun Del Re et al (6,807,438). Applicant's attention is directed to column 2, lines 1-25; column 10, line 64 – column 12, line 63. An additional insulating layer may be present as noted at column 13, line 51; therefore, the dielectric would be the high permittivity member and the insulating layer the thin cloth.

Claims 11, 12, and 15-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Usu (JP 55002416). Applicant's attention is directed to the submitted NPL document as it relates to this reference.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over any of Gevins et al (6,445,940), Brun Del Re et al (6,807,438), or Usu (JP 55002416) in view of Ishijima (JP 11128187). The primary references fail to disclose the use of conductive fiber for the electrode. Such material is well known as taught by Ishijima at paragraphs [0009] and [0010]. Accordingly,

the use of the same for the electrodes in any of the primary references would have been obvious to the skilled artisan since a predictable result would ensue.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brun Del Re et al (6,807,438) in view of Gevins et al (6,445,940). The primary reference fails to disclose the use of barium titanate for the dielectric. Such material is well known as taught by Gevins et al at column 5, line 2 (Y5V can be barium titanate) Accordingly, the use of the same for the dielectric in Brun Del Re would have been obvious to the skilled artisan since a predictable result would ensue.

#### *Drawings*

Figures 9 and 10 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee S. Cohen whose telephone number is 571-272-4763. The examiner can normally be reached on Monday-Friday, 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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